

OFFICE OF THE FEDERAL DEFENDER
EASTERN DISTRICT OF CALIFORNIA
801 I STREET, 3rd FLOOR
SACRAMENTO, CALIFORNIA 95814
(916) 498-5700 Fax: (916) 498-5710

Quin Denvir
Federal Defender

Daniel J. Broderick
Chief Assistant Defender

June 15, 2005

FILED

JUN 15 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK
DEPUTY CLERK

Mr. Michael B. Bigelow
Attorney at Law
428 J Street, #350
Sacramento, CA 95814

Re: **Charles Martin v. S.L. Hubbard**
Civ.S-99-223-WBS/GGH

Dear Mr. Bigelow:

This will confirm your appointment as counsel by the Honorable Gregory G. Hollows, U.S. Magistrate Judge, to represent the above-named appellant. You are attorney of record until such time as you are relieved or other action is taken to appoint a different attorney.

Enclosed is CJA 20 form, your Order of Appointment and Voucher for services rendered. Also enclosed is an instruction sheet discussing the use of the forms, together with sample forms for reporting court time. This will also provide a uniformity in the way attorneys report their time and services rendered.

If we may be of any further assistance regarding the processing of the enclosed form, preparation of form CJA 21 for expert services, or in reference to any other matter pertaining to this case, please feel free to call upon us at any time.

Very truly yours,


CYNTHIA L. COMPTON
CJA Panel Administrator

:clc
Enclosures

cc: Clerk's Office
Ninth Circuit Court of Appeals

1. CR. DKT./DEV. CODE 09C		2. PERSON REPRESENTED Martin, Charles		VOUCHER NUMBER	
3. MAG. DKT./DEV. NUMBER		4. DIST. DKT./DEV. NUMBER Civ.S-99-223-WBS/GCH		5. APPEALS DKT./DEV. NUMBER	
7. IN CASE/MATTER OF (Case Name) Martin v. S.L. Hubbard		8. PAYMENT CATEGORY Appeal		9. TYPE PERSON REPRESENTED Appellant	
10. REPRESENTATION TYPE CA					
11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) <small>If more than one offense, list (up to five) major offenses charged, according to severity of offense.</small> Appeal from the denial of a habeas corpus					
12. ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix) AND MAILING ADDRESS Michael B. Bigelow, Esq. 428 J Street, #350 Sacramento, CA 95814 Telephone Number: (916) 443-0217			13. COURT ORDER <input type="checkbox"/> Appointing Counsel <input type="checkbox"/> C. Co-Counsel <input type="checkbox"/> F. State For Federal Defender <input type="checkbox"/> B. State For Registered Attorney <input type="checkbox"/> P. State For Penal Attorney <input type="checkbox"/> Y. Standby Counsel Prior Attorney's Name: _____ Appointment Date: _____ <input type="checkbox"/> Because the above-named person represented has notified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel and (2) does not wish to waive counsel, and because the interests of justice so require, the attorney whose name appears on item 12 is appointed to represent this person in this case, or <input type="checkbox"/> Other (See instructions) GREGORY G. HOLLOWS Signature of Presiding Judicial Officer or By Order of the Court <i>June 14, 2005</i> 3/22/05 Date of Order Date Paid (MM/DD) Representing or partial representation ordered from this person represented for this service at time of appointment. <input type="checkbox"/> YES <input type="checkbox"/> NO		
14. NAME AND MAILING ADDRESS OF LAW FIRM (only provide per instructions)					

	CATEGORIES (Attach itemization of services with dates)	HOURS CLAIMED	TOTAL AMOUNT CLAIMED	MATH/TECH ADJUSTED HOURS	MATH/TECH ADJUSTED AMOUNT	ADDITIONAL REVIEW
I N C O U R T	15. a. Arraignment and/or Plea					
	b. Bail and Detention Hearings					
	c. Motion Hearings					
	d. Trial					
	e. Sentencing Hearings					
	f. Revocation Hearings					
	g. Appeals Court					
	h. Other (Specify on additional sheets)					
	(Rate per hour = \$ 90) TOTAL:					
O U T O F C O U R T	16. a. Interviews and Conferences					
	b. Obtaining and reviewing records					
	c. Legal research and brief writing					
	d. Travel time					
	e. Investigative and Other work (Specify on additional sheets)					
	(Rate per hour = \$ 90) TOTAL:					
	17. Travel Expenses (lodging, parking, meals, mileage, etc.)					
	18. Other Expenses (other than expert, transcripts, etc.)					

19. CERTIFICATION OF ATTORNEY/PAYEE FOR THE PERIOD OF SERVICE FROM _____ TO _____		20. APPOINTMENT TERMINATION DATE IF OTHER THAN CASE COMPLETION	21. CASE DISPOSITION
22. CLAIM STATUS <input type="checkbox"/> Final Payment <input type="checkbox"/> Interim Payment Number _____ <input type="checkbox"/> Supplemental Payment Have you previously applied to the court for compensation under representation for this case? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, were you paid? <input type="checkbox"/> YES <input type="checkbox"/> NO Other than from the court, have you, or is your knowledge has been able, received payment (compensation or anything of value) from any other source in connection with this representation? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, give details on additional sheets. I swear or affirm the truth or correctness of the above statements. Signature of Attorney: _____ Date: _____			

23. IN COURT COMP.	24. OUT OF COURT COMP.	25. TRAVEL EXPENSES	26. OTHER EXPENSES	27. TOTAL AMT. APPR / CERT
28. SIGNATURE OF THE PRESIDING JUDICIAL OFFICER			DATE	29a. JUDGE / MAG. JUDGE CODE
29. IN COURT COMP.	30. OUT OF COURT COMP.	31. TRAVEL EXPENSES	32. OTHER EXPENSES	33. TOTAL AMT. APPROVED
34. SIGNATURE OF CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE) <small>Payee or approved in name of the necessary threshold amount.</small>			DATE	34a. JUDGE CODE

1 MICHAEL B. BIGELOW
Attorney at Law
2 State Bar No. 65211
428 J Street, Suite 350
3 Sacramento, California 95814
Telephone: (916) 443-0217

4 Attorney for Petitioner
5 John Charles Martin

6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 CHARLES MARTIN) NO. Civ. S-99-223 WBS GGH P
10)
Petitioner,)
11) NOTICE OF APPEAL
v.)
12)
S.L. HUBBARD)
13)
Respondent.)
14)
15)

16 NOTICE is hereby given that petitioner, Charles Martin
17 appeals to the United States Court of Appeals for the Ninth
18 Circuit from the order and judgment of the district court
19 entered on March 11, 2005.

20 Mr. Martin also requests this Court issue a certificate of
21 appealability which will be filed separately.

22 / / /

23 / / /

1 See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

2 DATED: March 22, 2005 Respectfully submitted,

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5 /s/

6 Michael B. Bigelow
7 Attorney for Defendant/Appellant
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MICHAEL B. BIGELOW

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Attorney for Petitioner

John Charles Martin

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES MARTIN

Petitioner,

v.

S.L. HUBBARD

Respondent.

NO. Civ. S-99-223 WBS GGH P

ORDER (PROPOSED)

Under authority of Title 28, United States Code, section 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court hereby certifies that there is cause for an appeal in the above-entitled case. Accordingly, a certificate of appealability is hereby granted as to the following issues: 1) Whether the petitioner was procedurally defaulted as to Claims 3-6 of the Fourth Amended Complaint pursuant to *In re Clark*, 5 Cal.4th 750 (1993); 2) Whether petitioner was denied his Sixth Amendment right to effective assistance of counsel due to counsel's failure to investigate witnesses and object to the

1 admissibility of inadmissible evidence as alleged in Claims 3
2 and 4; 3) Whether petitioner was denied his right to due process
3 under the Fifth and Fourteenth Amendments to the U.S.
4 Constitution when he was deprived of his right to be present at
5 every critical stage of the trial proceedings when his trial
6 counsel agreed, without his consent to a play back of the
7 recorded interview in his absence, as alleged in Claim 5; 4)
8 Whether petitioner was denied his right to due process under the
9 Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution,
10 and the laws of the State of California, specifically his rights
11 to due process, to the effective assistance of counsel on appeal
12 when his appellate counsel unreasonably and prejudicially failed
13 to raise issues apparent from the appellate record and from the
14 facts reasonably available to counsel, and to present them to
15 the Court of Appeal or California Supreme Court post-conviction
16 proceedings, as alleged in Claim 6.
17

18 IT IS SO ORDERED

19 March 23, 2005

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21 WILLIAM B. SHUE
22 UNITED STATES DISTRICT JUDGE
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